



CITY OF ENGLEWOOD

333 west national road, englewood, ohio 45322, (513) 836-5106, fax 836-7426

June 24, 1993

US EPA RECORDS CENTER REGION 5



487261

Ms. Catherine Garypie
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA
77 West Jackson CM-3T
Chicago, Illinois 60604

RE: Request for Information Pursuant to Section 104(e) of
CERCLA for the Powell Road Landfill in Huber Heights,
Ohio

Dear Ms. Garypie:

I am in receipt of a June 3, 1993 information request regarding the Powell Road Landfill sent to the City of Englewood from Mr. Thomas W. Mateer, Chief, Superfund Program Management Branch, Office of Superfund. Mr. Mateer directed the City mail a response to you within 30 days of receiving this latest request for information. As the City Manager for the City of Englewood, I am providing the required response and should receive all future correspondence from your agency.

A thorough review of the latest information request reveals that the questions and various subparts contained therein are almost identical to the information request sent to the City on August 10, 1989. In response to that previous request, the City provided all information available to it at the time regarding the Powell Road Landfill (copy enclosed). The City reaffirms its previous answers and has no further information to submit regarding those questions.

In summary, the City has no knowledge or documents to suggest that the City ever generated, transported, treated, disposed or handled hazardous substances that ended up at the Powell Road Landfill. As a municipality, Request 11 is inapplicable, as are Requests 13-15. With respect to the request for liability insurance policies, the City objects to providing such information. With all due respect, absent any evidence that the City is a potentially liable party under CERCLA Section 107, Request 11 is arbitrary and capricious, and not in accordance with the law.



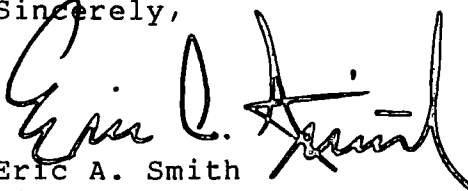
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Ms. Catherine Garypie
June 24, 1993
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If EPA has information that links the City of Englewood to the Powell Road Landfill site, I would like to review it. On August 22, 1989 the City's attorney, Wray Blattner, sent a written FOIA request for copies of all information, records, documents, memoranda and/or reports that are currently in the possession of the Region V office of U.S. EPA or its agents regarding the City of Englewood relating to the Powell Road Landfill. No response to that FOIA request has yet been received.

In the meantime, the City will inform you if it receives new information regarding any connection between the City and hazardous substances found at the Powell Road Landfill. I hope you find the City's position to be acceptable. If the Agency has objections or questions, please contact me.

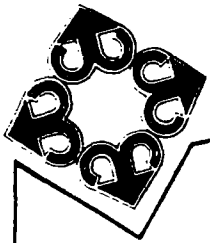
Sincerely,


Eric A. Smith
City Manager

EAS/js

Enclosure

Copy: J. Wray Blattner, Esq.



CITY OF ENGLEWOOD

333 west national road, englewood, ohio 45322, (513) 836-5106

RECEIVED

SEP 22 1989

J. W. B.

Mr. Tim Ashworth
Resource Applications, Inc.
1000 Cambridge Square
Suite D
Alpharetta, GA 30201

Re: Powell Road Landfill (Huber Heights, Ohio)
Request for Information

Dear Mr. Ashworth:

I am writing in response to Ms. Mary Gade's letter dated August 10, 1989 regarding the Powell Road Landfill site in Huber Heights, Ohio.

As you will note from my responses to the "Section 104(e)" request, the City of Englewood has virtually no information regarding this site. The City is a member of the Montgomery County Solid Waste District. As such, we are contractually obligated to require our franchised waste hauler (Dempsey Waste System) to take all refuse to the Montgomery County incinerators.

The City itself has hauled extremely small quantities of refuse to the Powell Road site over the years (see response to Question 10), and that waste, to the City's knowledge, was not "hazardous."

Notwithstanding the fact that the City does not believe that it bears any liability in connection with this site, it is glad to provide you with what little information it has regarding the Powell Road Landfill. To the extent additional relevant information is uncovered, I will provide it to your office.

1. Identify the person(s) answering these Questions on behalf of Respondent.

Eric A. Smith, City Manager
City of Englewood
333 West National Road
Englewood, Ohio 45322



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2. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.

J. Wray Blattner, Attorney for the City of Englewood

3. For each and every Question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question and provide true and accurate copies of all such documents.

The City has no documents pertaining to the Powell Road Landfill.

4. List the EPA RCRA Identification Numbers of the Respondent, if any, and identify the corresponding units, facilities or vessels assigned these numbers.

N/A

5. Describe the acts or omissions of any persons, other than your employees, agents or those persons with whom you had a contractual relationship, that may have caused, the release or threat of release of hazardous substances at the Site.

The City has no knowledge of any such acts or omissions.

In Addition:

- a. Describe all precautions that you took against foreseeable acts or omissions of any such third parties and the consequences that could foreseeable result from such acts or omissions.

The City has retained a competent, capable, and conscientious waste hauler (Dempsey Waste Systems) to handle its citizens' refuse.

- b. Describe the care you exercised with respect to the hazardous substances found at the Site.

N/A (The City has had no occasion to deal with any hazardous substances that may have been placed at the Site.)

6. Identify all persons, including Respondent's employees, who have knowledge, information or documents about the generation, use, purchase, treatment, storage, disposal or other handling of materials at or transportation of materials to the Site.

SCA (past waste hauler for the City, approximately 1976-1979)

Dempsey Waste Systems (waste hauler for the City, 1979-present)

Montgomery County Solid Waste District

7. Describe all arrangements that Respondent may have or may have had with each of the persons on the attached list.

As discussed above, the City has contracted with Dempsey to haul its refuse. The County controlled the disposition of the City's refuse upon its arrival at the County's incinerator facilities.

8. For each and every current owner, operator, lessor or lessee of any portion of the Site:
 - a. Identify such person and the nature of their operation at the Site.

No knowledge

- b. Describe the portion of the Site owned, operated, leased by each such person and state the dates during which each portion was owned, operated or leased.

No knowledge

- c. Provide copies of all documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.

The City has no such documents.

9. For each and every prior owner, operator, lessor or lessee of any portion of the Site known to you:

- a. Identify such person and the nature of their operation at the Site.

No knowledge

- b. Describe the portion of the Site owned, operated, leased by each such person and state the dates during which each portion was owned, operated or leased.

No knowledge

- c. Provide copies of all documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.

The City has no such documents.

- d. Provide all evidence that hazardous materials were released or threatened to be released at the Site during the period that they owned the Site.

The City has no such evidence.

- 10. Have you or any other person working with you or on your behalf ever accepted waste materials for transportation to the Site from any person? If the answer to this question is anything but an unequivocal no, identify:

See discussion below

- a. The persons from whom you or such other persons accepted waste materials for transport to the Site;
 - 1. Identify the individual(s) serving as the point of contact for transporters at the pick point(s).
 - 2. Identify all plant employees at the pick up point(s) who assisted in loading the truck.
 - 3. Identify all portions of the plant where material was picked up.
- b. Every date on which waste materials were so accepted or transported;
- c. For each transaction, the nature of the waste materials accepted or transported, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the material was used or the process which generated the material;
- d. For each material, describe any warnings given to you with respect to its handling;
- e. The owner of the materials so accepted or transported;

- f. The quantity of the material involved (weight or volume) in each transaction and the total quantity for all transactions;
- g. All tests or analyses and analytical results concerning each material;
- h. The price charged for transport and/or disposal per drum, barrel, container, load (or whatever unit used) of waste materials brought to the Site.

Over the past ten years or so, the City has itself hauled residential refuse to the Powell Road Landfill. Such activities were in connection with specific community-wide "garage sales." Unsold household goods, as well as trash items, would have been picked up at curbside and hauled to the Site.

In total, the City hauled only a total of approximately six truck loads. To its knowledge, none of the materials were "hazardous substances."

- 11. Identify the parent corporation and all subsidiaries of Respondent.

N/A

- 12. Identify all persons who may be responsible for the liabilities of Respondent arising from or relating to the release or threatened release of hazardous substances at the Site, including but not limited to successors and individuals.

The City does not believe it has any liability with respect to the Powell Road site. However, to the extent there would be any liability, the City believes others who may be potentially responsible for the City's liability include:

SCA
Dempsey Waste Systems
The site owners and operators
Montgomery County
Montgomery County and Englewood taxpayers

- 13. Provide a copy of the most current Articles of Incorporation and By-Laws of Respondent.

N/A

14. Identify the officers, managers and majority shareholders of Respondent and the nature of their management duties and amount of shares held, respectively.

N/A

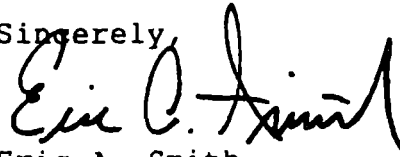
15. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Questions contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

None known

16. For each and every Question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, then identify the persons from whom such information or documents may be obtained.

None known

Sincerely,

A handwritten signature in black ink, appearing to read "Eric A. Smith", written over the typed name.

Eric A. Smith
City Manager

RECEIVED
JUN 29 1993

U.S. EPA REGION V
OFFICE OF REGIONAL COUNSEL